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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,950	11/20/2000	Joel A. Dyksterhouse	405200002USD	4817

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EXAMINER
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TENTONI, LEO B

ART UNIT	PAPER NUMBER
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1732

16

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/700,950

Applicant(s)

DYKSTERHOUSE, JOEL A.

Examiner

Leo B. Tentoni

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 52, 53, 56-58 and 62-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 62-80 is/are allowed.
- 6) ☒ Claim(s) 52, 56 and 57 is/are rejected.
- 7) ☒ Claim(s) 53 and 58 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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**DETAILED ACTION**

1. The rejection of claims 52, 53 and 56-58 under 35 U.S.C. 102(b) over Clarke et al (U.S. Patent 4,690,836), the rejection of claims 72, 74 and 78-80 under 35 U.S.C. 102(b) over Nose et al (EP 0 393 536 A2) and the rejection of claims 62-71, 73 and 75-77 under 35 U.S.C. 103(a) over Nose et al (EP 0 393 536 A2) set forth in the previous Office Action (Paper No. 13, mailed on 13 February 2003) are all withdrawn.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 52, 56 and 57 are rejected under 35 U.S.C. 102(b) as being anticipated by Cochran et al (U.S. Patent 5,236,646).

Cochran et al (see the entire document, in particular note col. 8, lines 38-60) teach a prepreg material including a fibrous reinforcement and a resin composition (impregnating the fibrous reinforcement), wherein the prepreg material has substantially no voids. Note that the resin compositions of Cochran et al include thermoplastic resins, which are generally applied in a molten state (and not in solution), and the prepreg material of Cochran et al is the same prepreg material product set forth in the

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instant claims (i.e., a fibrous reinforcement impregnated with a thermoplastic resin composition, having substantially no voids).

***Allowable Subject Matter***

4. Claims 53 and 58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 62-80 are allowable over the prior art references presently of record.

***Response to Arguments***

6. Applicant's arguments filed on 17 July 2003 have been fully considered but they are not persuasive. Applicant argues (pages 8 and 9) that Cochran et al do not teach or describe any method for forming the prepregs themselves, but is directed to eliminating voids and volatiles during consolidation. Examiner responds that instant claims 52, 56 and 57 are product-by-process claims, and the determination of patentability of product-by-process claims is based on the product itself and does not depend on its process of production (*In re Pilkington*, 411 F.2d 1345, 162 USPQ 145 (CCPA 1969); *In re Marosi*, 710 F.2d 799, 218 USPQ 289 (Fed. Cir. 1983); *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985)). The product recited in instant claim 52 is a prepreg material, which comprises a fibrous reinforcement impregnated with a thermoplastic resin composition, having substantially no voids. This product is fully met (i.e., anticipated) by the

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disclosure of Cochran et al (even if the voids are removed during a consolidation step). The limitations set forth in dependent claims 56 and 56 are also fully met by Cochran et al.

**Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo B. Tentoni whose telephone number is (703) 308-3834. The examiner can normally be reached on Monday - Friday (6:30 A.M. - 3:00 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (703) 305-5493. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Leo B. Tentoni*

Leo B. Tentoni  
Primary Examiner  
Art Unit 1732

lbt  
August 6, 2003